UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TENNESSEE at WINCHESTER

| CALVIN HARRIS |) | |
|---------------------------|---|-----------------------------|
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | Nos. 4:03-cv-30 / 4:02-cr-6 |
| |) | Edgar / Lee |
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Respondent. |) | |

MEMORANDUM AND ORDER

Federal prisoner Calvin Harris has filed a *pro se* motion for post-conviction relief pursuant to 28 U.S.C. § 2255. The United States of America opposes the motion.

The Court referred this case to Magistrate Judge Susan K. Lee for a report and recommendation under 28 U.S.C. § 636(b)(1)(B). On January 11, 2007, Magistrate Judge Lee submitted her report and recommendation. [Doc. No. 12]. The parties have not timely filed objections. After reviewing the record, the Court **ACCEPTS and ADOPTS** the entire report and recommendation pursuant to 28 U.S.C. § 636(b)(1).

Accordingly, to the extent petitioner Harris claims that his right to effective assistance of counsel protected under the Sixth Amendment to the United States Constitution was violated during his guilty plea proceedings and sentencing proceedings in this District Court, said ineffective assistance of counsel claims are **DENIED and DISMISSED WITH PREJUDICE**. Petitioner Harris has not met his burden of showing that these particular claims have any merit. The Court concludes that petitioner Harris is not entitled to post-conviction relief under 28 U.S.C. § 2255 on

the ineffective assistance of counsel claims regarding his guilty plea proceedings and sentencing

proceedings.

The Court withholds entry of a final judgment at this time. The instant memorandum and

order are interlocutory. The Magistrate Judge has scheduled an evidentiary hearing on the

remaining claim by petitioner Harris of ineffective assistance of counsel regarding the lack of a

direct appeal from the judgment of conviction and sentence. Petitioner Harris contends he requested

his attorney to file a direct appeal, but his attorney failed to comply with the request. The Magistrate

Judge will be submitting a further report and recommendation after the evidentiary hearing is

concluded.

SO ORDERED.

ENTER this 2nd day of February, 2007.

/s/ R. Allan Edgar

R. ALLAN EDGAR

UNITED STATES DISTRICT JUDGE

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